National Aeronautics and Space Administration
Ames Research Center
Moffett Field, California 94035-1000

NON-DISCLOSURE AND SOFTWARE USAGE AGREEMENT
FOR PROJECT RELEASE OF
NASA AMES RESEARCH CENTER SOFTWARE

Name of Company _____

located at _____

(hereinafter RECIPIENT] has requested that the United States Government as represented by the National Aeronautics and Space Administration, Ames Research Center , located at Moffett Field, California 94035-1000 (hereinafter NASA), release the following computer software:

Name of Software to be released: **CART3D**   **Version**: **1.3**

NASA Technology Number: ARC- 14275-1   (hereinafter SOFTWARE)

Description of Software: The invention is a collection of computer algorithms for the robust, efficient, and unambiguous processing of trangulated surface geometry. Complex geometries can be easily built up from combinations of simpler components. Portions of components that lie inside of other components are automatically trimmed away by the software, leaving only the external (exposed) portion of the component collection. The intersections between components are accurately maintained in the resultant traingulation. The success and automation of the software stems from its implementation of specialized algorithms for the unambiguous resolution of geometric degeneracies (tie breaking). Efficient data structures and many specialized algorithms from a variety of disciplines, including computational geometry and computer graphics, are then used to generate a body-intersecting Cartesian volume mesh that discretizes the surrounding flow field.

Additional information about the software is located at the following web site:
http://people.nas.nasa.gov/~aftosmis/cart3d/cart3Dhome.html

Software code to be released: Executable

Documentation to be released: User Guide

NASA Technical Point of Contact:
Name: Mike Aftosmis   Org Code:TNA
NASA Ames Research Center
Mail Stop: T27B-2
Moffett Field, CA 94035
Phone: 650-604-4499
E-mail: aftosmis@nas.nasa.gov

The authority for NASA to release SOFTWARE is NASA Policy Directive (NPD) 2210.1.

This Agreement is for the nondisclosure and use of SOFTWARE and technical data associated with the above-identified computer SOFTWARE for the purpose of performing work under the following project.

Project Name/Title of Agreement: _____

Contract/Grant/Cooperative Agreement Number: _____

Project Release ARC-14275-1   **SUA2-_____**

Completion of the project is scheduled to occur on _____

Support Provided: **No support of software will be available from NASA**

Describe how SOFTWARE is to be used:

_____

_____

_____

Definitions: For purposes of this Agreement, SOFTWARE is defined as a collection of one or more programs or microprograms fixed in any tangible medium of expression that comprises a sequence of instructions (source code) to carry out a process in, or convertible into, a form executable by an electronic computer (object code). The term "data", as used in this Agreement means recorded information, regardless of form, the media on which it may be recorded, or the method of recording. The term "technical data" is defined as any specific information necessary for the development, production or use of the SOFTWARE.

NOW THEREFORE, in consideration of NASA releasing the SOFTWARE to RECIPIENT and granting RECIPIENT the right to:

        (i)   Use the SOFTWARE, reproduce and make derivative works for purposes of fulfilling the obligations of the above referenced Contract, Grant, Cooperative Agreement or Space Act Agreement.

        (ii)   Release the SOFTWARE only to employees of RECIPIENT

The RECIPIENT agrees as follows:

1.   Hold all such disclosed information in confidence, further agreeing not to disclose the SOFTWARE or technical data to others or to use the SOFTWARE or technical data for any purpose, other than for fulfilling the RECIPIENT'S obligations of the above referenced Contract, Grant, Cooperative Agreement or Space Act Agreement, without the written permission of the Patent Counsel for NASA Ames Research Center. Excluded from the foregoing restrictions is information that:

    a. was published, known publicly or otherwise in the public domain prior to the effective date of this agreement;
    b. was known to RECIPIENT prior to the effective date of this agreement, provided that RECIPIENT shall have the burden of establishing such prior knowledge by competent written proof;
    c. subsequent to the effective date of this agreement, is published by NASA, or becomes publicly known, or otherwise becomes part of the public domain through no act or omission of RECIPIENT; or
    d. subsequent to the effective date of this agreement, is made available to RECIPIENT by a third party under no obligation of confidentiality.

2.   Should the SOFTWARE be modified or enhanced pursuant to the above-referenced contract, grant, cooperative or space act agreement, NASA will be provided the complete source code of that modified/enhanced version and the intellectual property rights will be delineated by the terms set forth in said contract, grant, cooperative or space act agreement.

3.   Use this SOFTWARE and technical data only for the purposes stated in the above-referenced contract, grant, cooperative or space act agreement, and not rent, lease, sell, sublicense, assign or otherwise transfer or distribute the SOFTWARE or technical data to third parties.

4.   Not use the SOFTWARE or technical data for commercial purposes.

5.   Not transfer or export any product, process, or service that is directly related to or the direct result of the SOFTWARE or technical data.

6.   The SOFTWARE and any technical data accompanying the SOFTWARE remain the property of NASA. The RECIPIENT acknowledges that it acquires no ownership interest in the SOFTWARE or any technical data accompanying the SOFTWARE under this Agreement.

7.   Upon completion of the above-referenced contract, grant, cooperative or space act agreement or termination of this Agreement, whichever comes first, the undersigned shall return the SOFTWARE and technical data to the NASA Technical Point of Contact listed above, or if so instructed, shall certify that the SOFTWARE and technical data have been destroyed and/or deleted from the computer systems on which it resided.

8.   **This SOFTWARE and technical data are not in the public domain** and no provision of this Agreement is to be construed as making either the SOFTWARE or the technical data available to the public without restriction.

The SOFTWARE has been classified as **EAR99.** It is intended for use only by persons who meet the requirements of this classification. In addition, within the United States, the SOFTWARE shall be made available only to foreign persons (as defined by 22 CFR §120.16) who meet this classification.

The SOFTWARE and associated technical data are "software" and "technical data" within the meaning of the Export Administration Regulations (EAR) at 15 CFR Parts 730-774 and depending upon its application, the International Traffic in Arms Regulations (ITAR) 22 CFR 120-130. As such, the SOFTWARE and technical data made available under this Agreement may require an export control license before they are either sent outside of the United States or made available to nationals of a foreign country either within the United States or abroad. Failure to obtain an export control license or to qualify for an applicable export control license exception before making this SOFTWARE or technical data available to a foreign national may subject the undersigned to significant civil and criminal penalties under the Export Administration Act of 1979, 50 U.S.C. app. Sections 24-1-2420, the Arms Export Control Act, 22 USC 2778 and their applicable regulations. For purposes of the export laws, a person who has permanent resident status as defined in 8 USC sections 1101(a)(20), and persons admitted to the United States on the basis of refugee status under 8 USC 1157, 1158 are U.S. persons and not foreign nationals. Similarly, a corporation or other business entity organized under the laws of the United States is a U.S. entity for purposes of the export laws. Furthermore, the undersigned shall not provide the SOFTWARE or technical data to any person or entity listed on any "denied parties/persons" list (including the Office of Foreign Assets Control, Specially Designated Nationals and Blocked Persons; Office of Foreign Assets Control, Changes to List of Specially Designated Nationals and Blocked Persons; Office of Defense Trade Controls, List of Debarred Parties; Bureau of Export Administration, List of Denied Persons; Bureau of Export Administration, Entity List). The undersigned certifies that he/she is a U.S. person (as defined by 22 CFR §120.15) and is not listed on any of the aforementioned lists.

9.   Notwithstanding any provisions contained herein, RECIPIENT is hereby put on notice that export of any goods or technical data from the United States may require some form of export license from the U.S. Government. Failure to obtain necessary export licenses may result in criminal liability of RECIPIENT under U.S. laws. NASA neither represents that a license shall not be required nor that, if required, it shall be issued. Nothing granted herein to RECIPIENT provides any such export license.

10.   THE SOFTWARE IS PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND, EITHER EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY THAT THE SOFTWARE WILL CONFORM TO SPECIFICATIONS, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND FREEDOM FROM INFRINGEMENT, AND ANY WARRANTY THAT THE DOCUMENTATION WILL CONFORM TO THE SOFTWARE, OR ANY WARRANTY THAT THE SOFTWARE WILL BE ERROR FREE. IN NO EVENT

SHALL NASA BE LIABLE FOR ANY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, ARISING OUT OF, RESULTING FROM, OR IN ANY WAY CONNECTED WITH THIS SOFTWARE, WHETHER OR NOT BASED UPON WARRANTY, CONTRACT, TORT, OR OTHERWISE, WHETHER OR NOT INJURY WAS SUSTAINED BY PERSONS OR PROPERTY OR OTHERWISE, AND WHETHER OR NOT LOSS WAS SUSTAINED FROM, OR AROSE OUT OF THE RESULTS OF, OR USE OF, THE SOFTWARE OR SERVICES PROVIDED HEREUNDER.

RECIPIENT AGREES TO WAIVE ANY AND ALL CLAIMS AGAINST THE U.S. GOVERNMENT, THE U.S. GOVERNMENT'S CONTRACTORS AND SUBCONTRACTORS.

IF FURTHER RELEASE OR DISTRIBUTION OF THIS SOFTWARE OR TECHNICAL DATA DERIVED FROM THIS SOFTWARE IS PERMITTED, RECIPIENT AGREES TO OBTAIN THIS IDENTICAL WAIVER OF CLAIMS, INDEMNIFICATION AND HOLD HARMLESS AGREEMENT WITH ANY ENTITIES THAT ARE PROVIDED WITH THE SOFTWARE OR TECHNICAL DATA DERIVED FROM USE OF THE SOFTWARE.

11.   If the SOFTWARE and/or any documentation provided with the SOFTWARE includes a copyright notice, or other restrictive marking or legend, identifying it as a work of a third party, the third party software or documentation will be governed by the terms and conditions of its copyright, or other restrictive marking. NASA disclaims all warranties and liabilities regarding third party software, if present in the NASA generated SOFTWARE, and distributes it "as is."

12.   NASA shall be neither liable nor responsible for any maintenance or updating of the SOFTWARE, nor for correction of any errors in the SOFTWARE.

13.   This Agreement does not, in any manner, constitute an exclusive release of the SOFTWARE to RECIPIENT. NASA's distribution of the SOFTWARE to other entities is in no manner limited.

14.   This Agreement does not, in any manner, constitute an endorsement by NASA of any test results, resulting designs, hardware, or other matters resulting from use of the SOFTWARE.

15.   This Agreement does not, in any manner, constitute the grant of a license to RECIPIENT under any NASA copyright, patent, patent application or other intellectual property.

16   The restrictions on disclosure and distribution imposed by this Agreement shall apply to any software code developed by RECIPIENT that incorporates any portion of the SOFTWARE.

17.   Any use of the SOFTWARE by RECIPIENT other than that authorized in this Agreement may result in liability of the RECIPIENT to the U.S. Government and/or other parties.

18.   This Agreement constitutes the entire understanding and agreement between the parties hereto relating to release of the SOFTWARE and may not be superseded, modified or amended except by further written agreement duly executed by the parties.

19.   This Agreement is not intended to create, constitute, give the effect of, or otherwise recognize a joint venture, partnership, agency, or formal business organization of any kind, and the rights and obligations of the undersigned and NASA shall be only those expressly set forth herein.

20.   If after using the SOFTWARE, the RECIPIENT wishes to commercialize the SOFTWARE the RECIPIENT must contact the Patent Counsel at NASA Ames Research Center, Mail Stop 202A-4, Moffett Field, CA 94035-1000 about obtaining a license.

21.   RECIPIENT shall inform all employees of RECIPIENT given access to the SOFTWARE of the restrictions specified herein, and RECIPIENT shall require that such employees be bound by such

restrictions. Furthermore, RECIPIENT represents that it has authority to bind such employees to the restrictions specified herein.

22.   This Agreement shall be construed, and the legal relations between the parties hereto shall be determined, in accordance with United States federal law for all purposes.

23   The RECIPIENT shall not assign or otherwise transfer this Agreement nor any interest arising under it without the prior written consent of the Patent Counsel, NASA Ames Research Center,
Mail Stop 202A-4, Moffett Field, CA 94035-1000.

24.   The effective date of this Agreement shall be the date of RECIPIENT'S execution of this Agreement as set forth below. The person signing below on behalf of RECIPIENT represents that he or she is a United States citizen or a U.S. person as defined in Paragraph 8 above and has the authority to sign this Agreement on behalf of RECIPIENT.

25.   This Agreement will end upon the completion of the above-referenced contract, grant, cooperative or space act agreement, unless terminated earlier.

26.   NASA retains the right to terminate this Agreement, in the event that NASA determines that the RECIPIENT fails to meet the requirements of this Agreement.

27.   Either NASA or the RECIPIENT may terminate this Agreement, at any time by written notice to the other thirty (30) days before the desired date of termination.

28.   The RECIPIENT agrees that a facsimile signature shall be valid and have full force and the same effect upon him/herself if an individual, or upon the company or entity if representing such, as original signatures

Executed on Behalf of RECIPIENT by:

_____   _____   _____
       Name (printed)   Signature   Date

_____
Title*

*Indicate your formal title if you are signing as an authorized representative on behalf of a company or entity. If you are signing as an individual, fill in the Title line as "individual"

Country of Citizenship: USA

If not a U.S. citizen, are you a resident alien?   Yes   ☐   No
        Alien Registration Number: _____

Name of Company or Entity: _____

Address: _____
                 _____
                 _____
City/State/Zip: _____

Phone: _____

Fax: _____

E-mail: _____

Custodian of software at Name of Company or Entity: _____
Name of Person: _____
Title: _____
Address: _____
                 _____
                 _____
City/State/Zip: _____
Phone: _____
Fax: _____
E-mail: _____

_____

Fax completed signed Agreement to: Agreements Administrator, Commercial Technology Office, NASA Ames Research Center, Mail Stop 202A-3, Moffett Field, CA 94035-1000. Phone 650-604-0509 Fax 650-604-1592